

**Senate File 2094 - Introduced**

SENATE FILE 2094

BY QUIRMBACH

**A BILL FOR**

1 An Act modifying provisions relating to the regulation of  
2 delayed deposit services businesses, providing penalties,  
3 and including effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 533D.2, Code 2014, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 2A. "*Finance charge*" means all charges  
4 payable directly or indirectly as a condition of a delayed  
5 deposit service transaction, including interest, fees, service  
6 charges, renewal charges, credit insurance premiums, and  
7 charges payable for any ancillary product sold in connection  
8 with a delayed deposit service transaction.

9 Sec. 2. Section 533D.9, Code 2014, is amended to read as  
10 follows:

11 **533D.9 Fee Finance charge restriction — required disclosure.**

12 1. A licensee shall not ~~charge a fee in excess of fifteen~~  
13 ~~dollars on the first one hundred dollars on the face amount~~  
14 ~~of a check or more than ten dollars on subsequent one hundred~~  
15 ~~dollar increments on~~ apply a finance charge in excess of an  
16 amount equal to thirty-six percent per annum, as computed  
17 pursuant to the federal Truth in Lending Act as defined in  
18 section 537.1302, times the face amount of the check for  
19 services provided by the licensee, ~~or pro rata for any portion~~  
20 ~~of one hundred dollars face value.~~

21 2. A licensee shall give to the maker of the check, at the  
22 time any delayed deposit service transaction is made, or if  
23 there are two or more makers, to one of them, notice written in  
24 clear, understandable language disclosing all of the following:

25 a. The fee finance charge to be ~~charged~~ imposed for the  
26 transaction.

27 b. The annual percentage rate as computed pursuant to the  
28 federal Truth in Lending Act as defined in section 537.1302.

29 c. The date on which the check will be deposited or  
30 presented for negotiation.

31 d. Any penalty, not to exceed fifteen dollars, which the  
32 licensee will charge if the check is not negotiable on the  
33 date agreed upon. A penalty to be charged pursuant to this  
34 section shall only be collected by the licensee once on a check  
35 no matter how long the check remains unpaid. A penalty to be

1 charged pursuant to this section is a licensee's exclusive  
2 remedy and if a licensee charges a penalty pursuant to this  
3 section no other penalties under this chapter or any other  
4 provision apply.

5 3. In addition to the notice required by subsection 2, every  
6 licensee shall conspicuously display a schedule of all ~~fees,~~  
7 finance charges, and penalties for all services provided by  
8 the licensee authorized by this section. The notice shall be  
9 posted at the office and every branch office of the licensee.

10 Sec. 3. Section 533D.10, subsection 1, paragraphs d and f,  
11 Code 2014, are amended to read as follows:

12 *d.* Require the maker to receive payment by a method which  
13 causes the maker to pay additional ~~or further fees and~~ finance  
14 charges to the licensee or another person.

15 *f.* Receive or apply any other finance charges or fees  
16 penalties in addition to ~~the fees~~ those listed in section  
17 533D.9, subsections 1 and 2.

18 Sec. 4. Section 533D.12, Code 2014, is amended by adding the  
19 following new subsection:

20 NEW SUBSECTION. 7. A violation of this chapter is a  
21 violation of section 714.16, subsection 2, paragraph "a". The  
22 provisions of section 714.16, including but not limited to  
23 provisions relating to investigation, injunctive relief, and  
24 penalties, shall apply to this chapter unless more prescriptive  
25 and stringent provisions are otherwise specified in this  
26 chapter.

27 Sec. 5. EFFECTIVE UPON ENACTMENT. This Act, being deemed of  
28 immediate importance, takes effect upon enactment.

29 EXPLANATION

30 The inclusion of this explanation does not constitute agreement with  
31 the explanation's substance by the members of the general assembly.

32 This bill modifies provisions relating to the regulation of  
33 delayed deposit services businesses in Code chapter 533D.

34 The bill deletes current provisions prohibiting delayed  
35 deposit services licensees from charging a fee in excess of \$15

1 on the first \$100 on the face amount of a check or more than \$10  
2 on subsequent \$100 increments on the face amount of the check  
3 for services provided by the licensee. The bill substitutes a  
4 provision prohibiting imposition of a finance charge in excess  
5 of 36 percent per annum as computed pursuant to the federal  
6 Truth in Lending Act, times the face amount of the check. The  
7 bill defines "finance charge" to mean all charges payable  
8 directly or indirectly as a condition of a delayed deposit  
9 service transaction, including interest, fees, service charges,  
10 renewal charges, credit insurance premiums, and charges for any  
11 ancillary product sold in connection with a delayed deposit  
12 service transaction.

13 The bill adds to existing penalty provisions authorizing  
14 the superintendent of banking to impose a civil penalty not  
15 to exceed \$5,000 per violation. The bill provides that a  
16 violation of the Code chapter constitutes a consumer fraud  
17 pursuant to the provisions of Code section 714.16, and that the  
18 applicable provisions relating to investigation, injunctive  
19 relief, and penalties shall apply to Code chapter 533D unless  
20 more prescriptive and stringent provisions are otherwise  
21 specified in the Code chapter. Violations would accordingly  
22 be subject to a civil penalty pursuant to Code section 714.16,  
23 subsection 7, in an amount not to exceed \$40,000 per violation,  
24 and in addition a civil penalty of not more than \$5,000 for  
25 each day of intentional violation of a temporary restraining  
26 order, preliminary injunction, or permanent injunction.

27 The bill takes effect upon enactment.